

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

W.9/160

25 January 1955

Limited Distribution

CONTRACTING PARTIES
Ninth Session

Original: English

Review Working Party I on
Quantitative Restrictions

Suggestion put forward by the Australian Delegation in the form of a Draft Resolution, to deal with the problems raised by the Federal Republic of Germany in connection with the immediate elimination of certain import restrictions not justified by balance-of-payments reasons

The Australian Delegation has noted that certain countries contemplate that for the protection of certain of their industries, they will need to use quantitative restrictions for a transitional period when they can no longer rely upon Article XI.

While we view with alarm the possibility that there would be any general need for the use of quantitative restrictions under such conditions, we realize that, in certain cases, the elimination of quantitative restrictions, and, where necessary their substitution by tariffs and other measures compatible with GATT may require a short period of adjustment.

The Federal Republic of Germany has put forward a proposal and has explained in some detail its particular difficulties. At this stage, the general scope and nature of the problems requiring special transitional use of quantitative restrictions is not clear. However, as a basis for discussion, and because we feel that such problems should be approached not on a general basis but on the basis of the demonstrated need of any particular country, the Australian delegation has prepared the following Draft Resolution addressed to the particular needs of the Federal Republic of Germany.

In putting forward this draft, the Australian delegation wishes to emphasize that not only is the use of quantitative restrictions inconsistent with the Agreement, but any widespread recourse to such measures, even by waiver procedure, would, in its view, seriously prejudice the objectives of GATT.

A N N E X

DRAFT RESOLUTION

Part I - Statement of Considerations

HAVING RECEIVED the request of the Federal Republic of Germany for an assurance from the CONTRACTING PARTIES that under certain conditions and for a limited period it will be authorized, at the appropriate time, to deviate from the provisions of Article XI of the General Agreement with respect to certain temporary emergency protective measures, including measures made effective through state trading,

NOTING that these measures have been introduced during a period of persistent balance-of-payment difficulties spreading over a number of years,

AGREEING that resort to import restrictions for particular purposes would not be in accord with the objectives of the Agreement,

And APPREHENDING that any general resort even for a temporary period to the use of import restrictions for such purposes would seriously impair the value of tariff concessions granted to other contracting parties and generally prejudice the interests of those parties,

AGREEING therefore that any approval by the CONTRACTING PARTIES of the temporary continuance of existing import restrictions that have had a protective effect must be strictly limited to cases where it can be shown that exceptional hardship would result from the sudden removal of such restrictions,

TAKING NOTE however of the nature and purpose of import restrictions at present being applied by the Government of the Federal Republic of Germany, their methods of operation and the effects of them upon the level of imports, and the incidence of the protection so afforded,

AND RECOGNIZING that the Government of the Federal Republic of Germany may find it necessary to give certain industries which have received such incidental protection an opportunity to adjust themselves to the situation that would be created by the removal of such restrictions,

CONSIDERING further the explanation of the Government of the Federal Republic of Germany that, notwithstanding the existence of import restrictions, a general policy of progressive liberalization has been followed in respect of imports,

AND HAVING BEEN ASSURED by the Government of the Federal Republic of Germany that:

- (1) no other measure which would be consistent with the provisions of the General Agreement is practicable;

- (ii) it intends to develop and apply appropriate internal measures to enable the abolition over a short transitional period of import restrictions which can no longer be justified by balance-of-payment conditions in accordance with the relevant provisions of the General Agreement;
- (iii) it will not intensify or extend existing import restrictions in any way but will carry out a policy for their progressive elimination within a period not exceeding three years from the time when it first ceases to be entitled to maintain them for balance-of-payment reasons under the relevant provisions of the General Agreement;
- (iv) it will grant to other contracting parties a fair and reasonable share of the market for the products to which such restrictions apply,

THE CONTRACTING PARTIES RESOLVE that a waiver of the provisions of Article XI shall be granted at the appropriate time to the Government of the Federal Republic of Germany to the extent necessary to enable it to maintain restrictions of the type specified in Part I above, subject to the conditions and procedures set out in Part II of this Resolution.

Part II - Conditions and Procedures of the Waivers

- (1) The Government of the Federal Republic of Germany shall notify the CONTRACTING PARTIES not later than one month before it expects that it will cease to be entitled to maintain restrictions under the relevant provisions of this Agreement to safeguard its external financial position and its balance of payments, setting out -
 - (a) the particular restrictions which it wishes to maintain,
 - (b) the effect of such restrictions upon domestic production and imports of the products concerned,
 - (c) the reasons why it considers that the immediate removal of such restrictions would cause serious hardship to the industries concerned,
 - (d) the period during which such restrictions would be progressively eliminated
 - (e) the necessary data to enable the CONTRACTING PARTIES to satisfy themselves -
 - (i) that the restrictions are necessary to afford temporary protection for a transitional period during which certain industries have to adjust themselves to the situation that will be created by the removal of import restrictions, and that there is no other practicable measure which would be consistent with the provisions of the General Agreement,

- (ii) that the internal measures which the Government of the Federal Republic of Germany is taking or plans to take for the elimination of such restrictions may reasonably be expected to achieve that result,
 - (f) the method of implementation of measures which the Federal Republic of Germany will take to ensure the non-discriminatory administration of such restrictions in full accordance with Articles XIII and XVII of the General Agreement and to ensure to imports from other contracting parties a fair and reasonable share of the market having regard to all the circumstances.
- (2) The waiver which the CONTRACTING PARTIES will give to the Government of the Federal Republic of Germany, after consideration of the data submitted to them in accordance with paragraph (1) above, shall be subject to such conditions and limitations as they shall determine to be reasonable and necessary.
 - (3) The Government of the Federal Republic of Germany, taking into account the harmful effects upon international trade in general and upon the interests of individual contracting parties that will arise from the operation of such restrictions as are being maintained under such waiver, will consider promptly any representations made to it by any contracting party with a view to the modification of those restrictions to the fullest extent possible and will report to the CONTRACTING PARTIES as soon as possible to advise the results of any such representations.
 - (4) Where a contracting party which has entered into consultations in pursuance of paragraph (3) above claims that serious prejudice has occurred to its interests arising from the nullification or impairment of concessions granted to it by the Federal Republic of Germany under the General Agreement on any product which is the subject of import restrictions, it may ask the CONTRACTING PARTIES to make a determination in regard thereto.
 - (5) If, in accordance with paragraph (4) above, the CONTRACTING PARTIES shall have determined that serious prejudice to the interests of any contracting party has resulted, that contracting party shall be free to suspend the application to the trade of the Federal Republic of Germany of such substantially equivalent obligations or concessions under this Agreement the suspension of which the CONTRACTING PARTIES do not disapprove.

Part III

- (1) The CONTRACTING PARTIES will review annually the restrictions authorized in accordance with the Resolution and require the Government of the Federal Republic of Germany to consult with them in accordance with the following procedures:

- (a) The Government of the Federal Republic of Germany shall submit an annual report to the CONTRACTING PARTIES in such detail as may be required and setting out:
 - (i) the progress made in the relaxation of restrictions authorized in accordance with this Resolution;
 - (ii) the result of the internal measures which it is taking to assure the elimination of such restrictions within the stipulated period;
 - (iii) the particular restrictions which it wishes to continue to maintain;
 - (iv) any change it may be proposing in the method of application of any such restrictions.
 - (b) Any contracting party substantially interested in trade with the Federal Republic of Germany in any commodity the subject of import restrictions may also submit a report to the CONTRACTING PARTIES indicating the nature of any serious prejudice which it claims has resulted from such restrictions.
- (2) The CONTRACTING PARTIES following each such review will extend the waiver for a further period of one year (but not beyond the period originally provided for in the waiver), PROVIDED that if they find that the maintenance or method of application of any restriction is no longer consistent with the terms and conditions of this Resolution, the CONTRACTING PARTIES may require that such restriction be withdrawn or modified within such time as they determine.